IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 22336 of 2007(H)

PETITIONER:

VINAYAN, S/O GOPALAN,
AGED 43 YEARS, KOTTICKAL HOUSE,
ELANTHURUTHY, VARATHAKKARA, THRISSUR DISTRICT.

BY ADV. SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY(HOME), GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE,
KANNAMALI POLICE STATION,
ERNAKULAM DISTRICT.

3. THE CIRCLE INSPECTOR OF POLICE,
MATTANCHERY, ERNAKULAM DISTRICT.

4. THE ASST. COMMISSIONER OF POLICE,
MATTANCHERY, ERNAKULAM DISTRICT.

5. CHELLANAM GRAMA PANCHAYAT REPRESENTED
BY ITS SECRETARY, CHELLANAM,
ERNAKULAM DISTRICT.

6. THE ASST. EXCISE COMMISSIONER,
ERNAKULAM.

7. THE DISTRICT COLLECTOR,
ERNAKULAM.

8. K.J.AGUSTINE, S/O JOSHWA,
AGED ABOUT 60, KATHULLY HOUSE,
MUTHUKUPURAM, GUNDUPARAMBU,
CHELLANAM P.O., ERNAKULAM.

9. P.A.SREENIVASAN, S/O ARJUNAN,
AGED ABOUT 58, PLAPARMBIL HOUSE,
GUNDUPARAMBU, PUTHIYAPALAM,
CHELLANAM P.O., ERNAKULAM.

BY ADV. SRI.DINESH R.SHENOY
SRI.V.V.UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).NO.22336 OF 2007

APPENDIX

EXHIBIT P1: COPY OF TODDY SHOP LICENSE NO.626/2007-08 IN RESPECT OF TODDY SHOP NO.25/2007-08 ISSUED BY THE ASSISTANT EXCISE COMMISSIONER, ERNAKULAM.

EXHIBIT P2: COPY OF PETITION DATED 16.7.2007 SUBMITTED BEFORE THE 2ND RESPONDENT WITH COPIES TO RESPONDENTS 3 & 4.

/TRUE COPY/

PA TO JUDGE

P.R.RAMAN & K.HEMA,JJ.

W.P.(C).NO.22336 OF 2007

Dated this the 25th day of July, 2007

JUDGMENT

Raman, J.

This Writ Petition is filed seeking police protection. The petitioner is a licensee as per Exhibit P1. He alleges illegal obstruction caused by party respondents. The learned Government Pleader, appearing on behalf of the State, brought to our notice an order dated 23.7.2007 passed by the Sub Divisional Magistrate, Fort Cochin, whereby the Sub Divisional Magistrate, invoking jurisdiction under Section 133 of the Code of Criminal Procedure, directed the petitioner to desist from carrying on the functioning of toddy shop No.T.S.25. This has been issued giving opportunity to appear before the Sub Divisional Magistrate and asserts why the order should not be enforced. So long as an order of the Sub Division Magistrate is in force, this court cannot exercise power under Article 226 of the Constitution of India to direct the police to give protection to continue to run the toddy shop. Therefore, leaving open the right to the petitioner to challenge the said order in appropriate proceedings, this Writ Petition is closed.

P.R.RAMAN, JUDGE

K.HEMA, JUDGE

vgs.